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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/786,801	02/25/2004	Marco Ronconi	242/9-1915	3338
28147	7590	03/31/2005	EXAMINER	
WILLIAM J. SAPONE COLEMAN SUDOL SAPONE P.C. 714 COLORADO AVENUE BRIDGE PORT, CT 06605			NASH, BRIAN D	
			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 03/31/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>
	10/786,801	RONCONI, MARCO <i>CD</i>
	<b>Examiner</b>	<b>Art Unit</b>
	Brian Nash	3721

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

1) Responsive to communication(s) filed on 25 February 2004.  
 2a) This action is FINAL.                            2b) This action is non-final.  
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

4) Claim(s) 1-8 is/are pending in the application.  
 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.  
 5) Claim(s) \_\_\_\_\_ is/are allowed.  
 6) Claim(s) 1-8 is/are rejected.  
 7) Claim(s) \_\_\_\_\_ is/are objected to.  
 8) Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

9) The specification is objected to by the Examiner.  
 10) The drawing(s) filed on 25 February 2004 is/are: a) accepted or b) objected to by the Examiner.  
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
 a) All    b) Some \* c) None of:  
 1. Certified copies of the priority documents have been received.  
 2. Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413)
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Date. _____
3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
	6) <input type="checkbox"/> Other: _____

## **DETAILED ACTION**

### ***Examiner's Comments***

1. This action is in response to applicant's preliminary amendment received 2/25/2004.

### ***Priority***

2. Receipt is acknowledged of papers submitted under 35 U.S.C. 119(a)-(d), which papers have been placed of record in the file.

### ***Specification***

3. The disclosure is objected to because of the following informalities: the disclosure is missing descriptive sub-headings, i.e. BACKGROUND OF THE INVENTION, BRIEF SUMMARY OF THE INVENTION, BRIEF DESCRIPTION OF THE DRAWINGS, and DETAILED DESCRIPTION OF THE DRAWINGS. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 102***

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 1-5 and 8 are rejected under 35 U.S.C. 102(b) as being anticipated by US 4,304,349 to Novak et al. Novak et al disclose the same invention including a pneumatic gun

having a handle (24), a magazine (34) provided with a sliding flap (72,74,76), a body having a working head (78) coupled to a complementary end head (80) of the magazine and forming an opening, i.e. firing channel (82) for the passage of fastener elements; the pneumatic gun comprises a guide (32) that runs from the working head to the handle and which is coupled slidably so as to allow a manual translational motion of the magazine from a first, active (engaged) position wherein the working head is adjacent to the end head, to a second, non-active (disengaged) allowing access to the firing channel (see column 4, lines 20-46);

and the guide is arranged substantially at right angles to the working head and forms a longitudinal slot (104,106) along which the magazine is slidably engaged (see column 5, lines 34-65, Figs. 7-9);

and wherein the guide is provided with means (128) for manual locking and release of the magazine and an associated safety closure (138) adapted to prevent translational motion of the magazine;

and wherein the locking and release means comprise a lever (130) that is pivoted having a first end portion for actuation and a second end portion that forms a sort of beak (not individually referenced, see Fig. 6) that abuts against a contoured tooth (100) that is equivalently monolithic with the magazine, an elastic means (136) between the first end portion and the guide, and a lever, i.e. the first end portion, manually rotatable for locking the sliding of the magazine;

and wherein the guide is detachably connected via screw means (100, see Fig. 1) to an extension (30) of the handle.

***Claim Rejections - 35 USC § 103***

6. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 6 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over US 4,304,349 to Novak et al. As discussed above, Novak et al disclose the invention substantially as claimed, but do not explicitly disclose the safety closure (138) to be constituted by an insert which is detachably engaged in a pocket provided in the guide nor do Novak et al show the longitudinal slot of the guide to have a substantially T-shaped transverse cross-section. However, Novak et al do show a means for safely locking and releasing the magazine from engagement with the guide. It would have been obvious to one skilled in the art to configure/modify the invention of Novak et al in order to include such specific elements as an insert detachably engaged in a pocket provided in the guide, since such a modification is within the engineering purview of the skilled artisan concerned with and either design serves the same function.

Furthermore, Novak et al show the longitudinal slot of the guide to have an L-shaped transverse cross-section. It would have been an obvious matter of design choice to provide a longitudinal slot of either shape since applicant has not disclosed that one shape over another solves any stated problem or is for any particular purpose and it appears that the nail gun and sliding engagement between the guide and magazine would perform equally well with either design choice.

***Conclusion***

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fiedler, Figge et al, Geist et al, Hou, and Ronconi are cited to show related references.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian Nash whose telephone number is 571-272-4465. The examiner can normally be reached on Monday – Thursday from 8 a.m. to 5 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi I. Rada can be reached at 571-272-4467.

The official fax number for this Group is: 703-872-9306

Brian Nash  
9 March 2005



Rinaldi I. Rada  
Supervisory Patent Examiner  
Group 3700